

Douglas S. Parker, OSB No. 821017
dparker@littler.com
Jennifer Warberg, OSB No. 035472
jwarberg@littler.com
Don H. Stait, OSB No. 105134
dstait@littler.com
LITTLER MENDELSON, P.C.
121 SW Morrison, Suite 900
Portland, OR 97204
Telephone: 503.221.0309
Fax No.: 503.242.2457

Attorneys for Defendant
JACK IN THE BOX INC., a Corporation of Delaware

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JESSICA GESSELE, ASHLEY ORTIZ,
NICOLE GESSELE, TRICIA
TETRAULT, CHRISTINA MAULDIN,
and JASON DIAZ, both on behalf of
themselves individually and, in addition, on
behalf of the other similarly situated
employees,

Plaintiff,

v.

JACK IN THE BOX INC., a Delaware
corporation doing business in Oregon as
"Jack In The Box Inc. A Corporation of
Delaware",

Defendant.

Case No. 3:14-cv-1092-____

DEFENDANT'S NOTICE OF REMOVAL OF
ACTION

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant
Jack in the Box Inc., by filing this Notice of Removal and related papers, removes this action
from the Circuit Court of the State of Oregon for the County of Multnomah ("Multnomah

County Circuit Court”) to the United States District Court for the District of Oregon. This case is being removed to this Court based on federal question, diversity and CAFA jurisdiction.

Defendant states in support of its Notice of Removal the following:

NOTICE OF REMOVAL IS TIMELY

1. On June 5, 2014, Plaintiffs Jessica Gessele, Ashley Ortiz, Nicole Gessele, Tricia Tetrault, Christina Mauldin, and Jason Diaz (“Plaintiffs”) filed a civil action against Defendant in Multnomah County Circuit Court entitled *Jessica Gessele, et al. v. Jack In The Box Inc.*, Case No. 14CV06380. Pursuant to 28 U.S.C. § 1446(a), all state court papers served on Defendant at the time of the removal, consisting of a Summons, Complaint and Affidavit of Service, are attached hereto as **Attachments A, B and C**, respectively. By signing this Notice of Removal, counsel for Defendant verifies that the items attached hereto are true and complete copies of all the records and proceedings in the state court proceeding.

2. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b), which provides that a Notice of Removal must be filed within 30 days after a defendant receives, by service or otherwise, the initial pleading. On June 10, 2014, Plaintiffs served a copy of the Complaint on Defendant. *See Attachment C*. Therefore, this Notice of Removal is timely filed.

3. No further proceedings have been had in the Multnomah County Circuit Court, as of the date of filing this removal.

FEDERAL QUESTION JURISDICTION EXISTS

4. This action may be removed pursuant to 28 U.S.C. § 1441 because the action involves a claim or right arising under the laws of the United States, as the Complaint’s Sixth Claim for Relief is based upon alleged violations of The Fair Labor Standards Act, specifically

29 U.S.C. § 207. *See Attachment B*, pp 22-23; 31-32. The action also includes various related state wage and hour claims and common law claims. *See Attachment B*, pp 28-34.

5. This Court has original jurisdiction of the federal claims pursuant to 28 U.S.C. § 1331.

6. This Court has supplemental jurisdiction over the state claims pursuant to 28 U.S.C. § 1367(a), as the state claims form part of the same case or controversy as the federal claims.

COMPLETE DIVERSITY JURISDICTION EXISTS

7. This action may also be removed pursuant to 28 U.S.C. §§ 1332 and 1441 because the action is between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

8. Plaintiffs were, upon information and belief, both when their Complaint was filed and at the time of removal, residents and citizens of the State of Oregon. *See Attachment B*, ¶4.

9. Defendant was, both when the Complaint was filed and at the time of removal, a corporation incorporated under the laws of Delaware with its principal place of business in California. *See Attachment B*, ¶5. Therefore Defendant is not a citizen of the State of Oregon.

10. Plaintiffs allege damages of approximately \$45,000,000. *See Attachment B*, Complaint Caption (“Damages estimated at approximately \$45,000,000”).

CAFA JURISDICTION EXISTS

11. This action may also be removed pursuant to the Class Action Fairness Act of 2005 (“CAFA”) because: (a) there is diversity between at least one class member and Defendant; (b) Defendant is not a governmental entity; (c) the proposed class contains at least 100 members;

and (d) the total amount in controversy for all class members exceeds \$5,000,000. 28 U.S.C. § 1332(d)(2), (5).

12. This action has been styled as a class action pursuant to Oregon Rule of Civil Procedure 32. *See Attachment B*, Complaint Prayer for Relief (“**WHEREFORE**, Plaintiffs request that the Court certify the Rule 32 classes and FLSA collectives as indicated herein;...”).

13. As set forth above, there is complete diversity in this action, the total amount in controversy exceeds \$5,000,000, and Jack in the Box Inc. is a Delaware corporation.

14. Plaintiff’s proposed class contains at least 100 members. *See Attachment B*, ¶42 (“Each of the above Classes is so numerous that joinder of all members is impractical, consisting of thousands of persons each (there are over 50 Jack in the Box locations in Oregon, with many employees per store and a high turnover rate).”).

REMOVAL TO THIS DISTRICT IS PROPER

15. Pursuant to 28 U.S.C. §§ 1331, 1332, 1367, 1441, and 1446, removal of the above-captioned state court action to this Court is appropriate.

16. Pursuant to 28 U.S.C. § 1441(a), removal is made to this Court as the District and Division embracing the place where the state court action is pending.

17. Defendant has good and sufficient defenses to this action and does not waive any defenses, jurisdictional or otherwise, by filing this Notice of Removal.

18. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing to Plaintiffs, through their counsel, written notice of the filing of this Notice of Removal. Furthermore, Defendant is filing a copy of this Notice of Removal with the Clerk of the Multnomah County Circuit Court, where the action is currently pending.

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WHEREFORE, Defendant hereby removes this civil action from the Multnomah County Circuit Court to this District Court.

Dated: June 9, 2014.

Respectfully submitted,

/s/ Douglas S. Parker

Douglas S. Parker, OSB No. 821017

Jennifer Warberg, OSB No. 035472

Don H. Stait, OSB No. 105134

Little Mendelson, P.C.

Attorneys for Defendant

JACK IN THE BOX INC., a Corporation of
Delaware

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